

OFFICE OF THE RAMSEY COUNTY ATTORNEY

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Criminal Division

February 13, 2018

Investigator Timothy Birkholz
Metro Transit - Police
2425 Minnehaha Ave S
Minneapolis, MN 55404

RE: Suspect: Abdellatif El Maarouf
County Attorney File No. 062-0396453
Metro Transit - Police Incident CN: 17032344

Dear Investigator Birkholz:

The contents of this letter are attorney work product and are, therefore, confidential.

The Ramsey County Attorney's Office has reviewed the above-mentioned case and has found reason not to file a criminal complaint. This case was reviewed by Derek Fitch and his direct phone number is [REDACTED]. The case was declined for the following reason:

El Maarouf was driving a Light Rail Train toward Minneapolis. He missed a horizontal signal telling him to stop the train. He ran a red light and struck a passenger car driven by Westlake. Westlake died a few days later and his female passenger sustained a broken arm from the crash. Investigation revealed that El Maarouf was not on his cell phone at the time of the crash, and he did not have any drugs or alcohol in his system. The train was going just under 30 mph so El Maarouf was not speeding at the time of impact. Prior to entering the intersection where the crash occurred and along the route, El Maarouf sounded his horn which is the practice when approaching intersections. El Maarouf evidently honked at the crash intersection in response to a SUV going through the intersection before Westlake's car. El Maarouf refused an interview, but he told officers at the scene that he had the right of way. Surveillance video contradicts El Maarouf's statement. El Maarouf missed the horizontal line, the red traffic lights at the intersection, and the brake lights of the many cars at the intersection as he neared it.

Although the fact he was driving a train heightens his duty of care, I am unaware of any case law that suggests the size of the vehicle involved in a CVO or CVH impacts the gross negligence standard. As such, El Maarouf's driving conduct is that of anyone who misses a red light and mistakenly enters an intersection against the light. Although the consequences in this case were fatal, it does not mean that El Maarouf was driving with scant care. He was in control of the motor vehicle and honked to warn vehicles of the train's presence in the intersection. Based on the entirety of the facts in this case we cannot prove that El Maarouf was operating the train with scant care which is the legal standard required to prove gross negligence.

Should you have any questions or concerns regarding this case, please speak with the attorney who reviewed the case.

Sincerely,

Ramsey County Attorney's Office
Prosecution Division